

## **ATTACHMENT 3**

## **16.0 DETERMINATION OF FOREIGN OWNERSHIP, CONTROL, OR DOMINATION, COMMON DEFENSE AND SECURITY, AND RELIABLE AND ECONOMICAL SOURCE OF DOMESTIC ENRICHMENT SERVICES**

### **16.1 Responsibility for Review**

**16.1.1 Primary:** As designated.

**16.1.2 Secondary:** Facilities security specialist/safeguards technical analyst.

**16.1.3 Supporting:** Material control and accounting inspector/resident inspector.

### **16.2 Purpose of Review**

The purpose of this review is to determine that an applicant for transfer of certificates to a new entity is not owned, controlled, nor dominated by an alien, a foreign corporation, or a foreign government; that issuance of a certificate would not be inimical to the common defense and security of the United States; and that issuance of a certificate would not be inimical to the maintenance of a reliable and economical domestic source of enrichment services<sup>3</sup>. Reviews under this section will apply to certificate transfers to a new owner or any transfer of control under 10 CFR 76.65. Reviews under this section will also apply to submittals required under the certificate conditions described in Section 16.4.2.1, Item 6, in this Standard Review Plan.

~~The purpose of this review is to determine that an applicant for recertification is not owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; that issuance of a certificate would not be inimical to the common defense and security of the United States; and that issuance of a certificate would not be inimical to the maintenance of a reliable and economical domestic source of enrichment services.~~

### **16.3 Areas of Review**

#### General

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<sup>3</sup> Note: The procedures in this Standard Review Plan for a statutory determination of foreign ownership, control, or domination, are not to be used to determine foreign ownership, control, or influence (FOCI) for granting access to classified material. The National Industrial Security Program Operating Manual (NISPOM) (see Reference 1) is the governing document for determining FOCI and the granting of access to classified material.

The staff reviews an application to transfer certificates to a new entity to examine if the application for the transfer meets the requirements related to foreign ownership, control, or domination; common defense and security; and whether a reliable and economical domestic source of enrichment services will be maintained.

~~The staff reviews an application to transfer certificates to examine the changes proposed in the application for the transfer from that which is currently approved or permitted under the existing certificates.~~

#### Foreign Ownership, Control, or Domination

~~Information submitted by the applicant, as specified in, "Foreign Ownership, Control, or Influence Guidance Documents for the Privatization of the United States Enrichment Corporation," will be reviewed. This information includes, but is not limited to:~~

- ~~1. \_\_\_\_\_ Portions of securities held by foreign entities or held by means that prevent the identification of the beneficial owner.~~
- ~~2. \_\_\_\_\_ Management positions held by non-U.S. citizens.~~
- ~~3. \_\_\_\_\_ Ability of foreign entities to control the appointment of management positions.~~
- ~~4. \_\_\_\_\_ Contracts and other agreements with foreign entities.~~
- ~~5. \_\_\_\_\_ Finance and revenue sources involving foreign entities.~~

#### Common Defense and Security

~~The following items will be reviewed for compliance with NRC regulatory requirements to protect the common defense and security:~~

- ~~1. \_\_\_\_\_ Physical security plan.~~
- ~~2. \_\_\_\_\_ Security plan for the protection of classified matter.~~
- ~~3. \_\_\_\_\_ Fundamental nuclear material control plan.~~
- ~~4. \_\_\_\_\_ Inspection, event, and resident inspector reports dealing with facility and transportation physical protection, material control and accounting, information security programs, and control of classified material.~~
- ~~5. \_\_\_\_\_ Information regarding the impact of the Russian High Enriched Uranium (HEU) Agreement, and any related contracts, on the financial condition of the applicant.~~
- ~~6. \_\_\_\_\_ An assessment of the performance of the applicant as the executive agent of the United States for the Russian HEU Agreement in consultation with members of the Enrichment Oversight Committee.~~

## Reliable and Economical Source of Domestic Enrichment Services

Under the Atomic Energy Act of 1954, as amended, Section 193(f)(2)(B) requires that the Commission may not issue a license or certificate of compliance to the United States Enrichment Corporation if the Commission determines that issuance would be inimical to “the maintenance of a reliable and economical domestic source of enrichment services.” Section 193(f)(2)(B) is principally directed to the possibility of foreign entities gaining control and undermining U.S. domestic enrichment capabilities. Therefore, the reviews related to Foreign Ownership, Control, or Domination, and Common Defense and Security will encompass the “reliable and economical” issue when there is an application to transfer certificates to a new facility owner.

## **16.4 Review Procedures**

### **16.4.1 Acceptance Review**

An acceptance review under this section is needed only when there is an application to transfer certificates for a change in ownership or control. The primary reviewer should determine that the application meets the requirements of 10 CFR 76.35, “Contents of Application,” and 10 CFR 76.36, “Renewals,” with respect to the determination of foreign ownership (see Section 16.5.1, “Regulatory Requirements”), and that the topics discussed in Section 16.3, “Areas of Review,” have been addressed.

~~The staff reviews assessments of the financial condition of the applicant. The assessments will be based on the actual or estimated credit rating of the applicant, a standard used by the financial community to objectively measure an entity’s financial condition and its ability to meet its obligations and other economic, financial, and business characteristics. The current public credit rating of the applicant, published by a recognized credit rating agency (e.g., Standard & Poor’s, Moody’s Investor Service, Duff & Phelps, or Fitch), will be reviewed. If (1) the applicant does not have a current public credit rating, or (2) in the case of a transfer of the certificates, a public credit rating would not apply to the applicant after the transfer, then an assessment of the financial condition of the applicant, based upon an estimate of the applicant’s credit rating, will be reviewed. This estimated credit rating will be based on quantitative and qualitative analyses of the financial and business risks of the applicant.~~

If significant deficiencies are identified in the application, the applicant should be requested to submit additional material before the staff **begins** ~~resumes~~ the application review.

### **16.4.2 Evaluation**

The reviewer should determine whether the applicant is subject to any of the criteria set forth in 10 CFR Part 76.22, “Ineligibility of Certain Applicants.” **If so, the primary reviewers should perform an evaluation of the information presented in the application against the acceptance criteria in Section 16.5, using the evaluation procedures described in the following sections.**

#### 16-4.2.1 Foreign Ownership, Control, or Domination

An applicant is considered to be foreign owned, controlled, or dominated whenever a foreign interest has the power, direct or indirect, whether or not exercised, ~~and whether or not exercisable~~, through the ownership of the applicant's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of the applicant.

A foreign interest is defined as any foreign government, agency of a foreign government, or representative of a foreign government; any form of business enterprise or legal entity organized, chartered, or incorporated under the laws of any country other than the United States (U.S.) or its possessions and trust territories; any person who is not a citizen ~~nor~~ national of the U.S.; and any U.S. interest effectively controlled by one of the above foreign entities.

Information submitted by the applicant, as specified in, "Foreign Ownership, Control, or Influence Guidance Documents for the Privatization of the United States Enrichment Corporation," (see Reference 2) will be reviewed. The reviewer assesses the following items to determine if the applicant is foreign owned, controlled, or dominated:

1. The applicant provides answers to the following questions. If any of the answers are affirmative, the applicant furnishes detailed information that describes all conditions that exist. The information is considered in the aggregate. The fact that some of the below listed conditions may apply does not necessarily render the applicant ineligible for recertification.
  - a. Does a foreign interest own or have beneficial ownership in 5 percent or more of ~~your~~ **the** organization's voting securities?
  - b. Does ~~your~~ **the** organization own 10 percent or more of any foreign interest?
  - c. Do any foreign interests have management positions, such as directors, officers, or executive personnel, in ~~your~~ **the** organization?
  - d. Does any foreign interest control or influence, or is any foreign interest in a position to control or influence, the election, appointment, or tenure of any of ~~your~~ **the** directors, officers, or executive personnel?
  - e. Does ~~your~~ **the** organization have any contracts, binding agreements, understandings, or arrangements with a foreign interest(s), that cumulatively represent 10 percent or more of ~~your~~ **the** organization's gross income?
  - f. Is ~~your~~ **the** organization indebted to foreign interests?
  - g. During ~~your~~ **the** last fiscal year, did ~~your~~ **the** organization derive 5 percent or more of its total revenues or net income, from any single foreign interest, or in the aggregate, 30 percent or more of its revenues or net income from foreign interests?

- h. Is 5 percent or more of any class of ~~your~~ **the** organization's securities held in "nominee shares," in "street names," or in some other method that does not disclose beneficial owner of equitable title?
  - i. Does ~~your~~ **the** organization have interlocking directors/officers with foreign interests?
  - j. Are there any citizens of foreign countries employed by the organization or who may visit ~~your~~ offices or facilities in a capacity that may permit them to have access to classified information or a significant quantity of special nuclear material?
  - k. Does ~~your~~ **the** organization have foreign involvement not otherwise covered in ~~your~~ **the** answers to the above questions?
2. The reviewer obtains a foreign intelligence threat assessment. This assessment is conducted through the intelligence community and others, and is coordinated by the **U.S.** Department of Energy (DOE). The reviewer obtains the assessment by contacting the DOE representative to the Enrichment Oversight Committee.
  3. If the applicant submits any affirmative information listed in Section 16.5.1 or Steps 1.a through 1.k above, or the foreign intelligence threat assessment contains information that the applicant may be foreign owned, controlled, or dominated, the reviewer determines:
    - a. The nature and extent of foreign ownership, control, or domination, to include whether a foreign interest occupies a controlling or dominant minority position;
    - b. The source of foreign ownership, control, or domination, to include identification of immediate, intermediate, and ultimate parent organizations; and
    - c. The type of actions, if any, that would be necessary to negate the effects of foreign ownership, control, or domination to an acceptable level.
  4. The staff determines that an applicant is considered to be foreign owned, controlled, or dominated, or that additional action is necessary to negate the foreign ownership, control, or domination; the applicant is promptly advised and requested to submit a negation action plan. In cases that involve foreign ownership, a plan may consist of one of the methods described in Chapter 2, Section 2-306, of the National Industrial Security Program Operating Manual (NISPOM). When factors not related to ownership are present, the plan provides positive measures that assure that the foreign interest can be effectively denied control or domination. Examples of such measures include: modification or termination of loan agreements, contracts, and other understandings with foreign interests; diversification or reduction of foreign source income; demonstration of

financial condition independent of foreign interests;; elimination or resolution of problem debt;; assignment of specific oversight duties and responsibilities to board members;; adoption of special board resolutions;; and other actions that negate foreign control or domination.

5. The reviewer arranges to meet with, or otherwise communicate these findings to, the principal members of the Enrichment Oversight Committee and obtain their comments.
6. The reviewer ensures that the NRC remains informed regarding foreign ownership, control, or domination by preparing certificate conditions of the following types:

If, at any time after the privatization date, the applicant obtains information reasonably indicating changes described in the NISPOM, ~~DDO-5520-22-M~~, January 1995, Chapter 1, Section 3, 1-302(h) (see Reference 1), to the information previously submitted to the NRC, described in the NISPOM, Chapter 2, Section 3, 2-302 b(1) through (11) (see Reference 1), the applicant shall notify the NRC, in writing, within 15 days.

If the applicant enters into negotiations for the proposed merger, acquisition, or takeover by a foreign person, the applicant submits notification to the NRC, in writing, within 15 days of the commencement beginning of such negotiations. The submission includes the type of transaction under negotiation (stock purchase, asset purchase, etc.); the identity of the potential foreign person investor; a plan to negate foreign ownership, control, or domination;; and copies of any related loan, purchase, and shareholder agreements, as well as annual reports, bylaws, articles of incorporation, partnership agreements, and reports filed with other Federal agencies.

#### 16.4.2.2 Common Defense and Security

The reviewer assesses the following items to determine if the applicant is in compliance with NRC regulatory requirements to protect the common defense and security:

1. The reviewer determines that NRC has reviewed and approved the applicant's physical security plan and fundamental nuclear material control plan ~~have been reviewed and approved by the NRC.~~
2. The reviewer consults with the primary reviewer of the Classified Matter Plan to ensure that the applicant's security plan for the protection of classified matter has been reviewed and approved.
3. If the applicant has previously been issued a certificate of compliance previously, the reviewer ensures that NRC inspection reports -- dealing with facility and transportation physical protection, material control and accounting, information security programs, and control of classified material -- do not indicate a general failure to protect the common defense and security interests of the United States.

4. ~~———— The reviewer considers the impact of executing contracts associated with the Russian HEU Agreement on the financial condition of the applicant. The analysis of the applicant's financial condition, described below, includes information concerning the cost of procuring Russian material, the amount of material the applicant has contracted to procure, the costs of enrichment services provided by the applicant, and current market prices. This information allows the reviewer to gauge whether executing such contracts might be a significant economic disadvantage, or favorable to an extent that would motivate the applicant to reduce the production of domestic enrichment services.~~
- 5 4. The reviewer arranges to meet with, or otherwise consult with, the principal members of the Enrichment Oversight Committee, to obtain ~~the committee's~~ **their** assessment of the applicant's performance as the U.S. agent for the Russian **High Enriched Uranium (HEU)** Agreement, **if applicable**.
- 6 5. The reviewer ensures that ~~the~~ NRC remains informed regarding the applicant's performance as the U.S. agent for the Russian HEU Agreement by preparing a certificate condition of the following type:

**The applicant** ~~USEC~~, or its successors, as the Executive Agent for the United States for implementing the Russian HEU Agreement, shall notify ~~the~~ NRC, in writing, within 15 days, if at any time and for any reason, including actions of third parties, **the applicant** ~~USEC~~ or its successors become aware of, or anticipate, any change in the provisions of, or in the implementation of, the terms of **any the Memorandum of Agreement applicable to an entity serving as Executive Agent for the Russian HEU Agreement. [License reviewer to provide specific title of the Memorandum of Agreement and the execution date.]** ~~"Memorandum of Agreement Between the United States Acting By and Through the United States Department of State, and the United States Department of Energy and the United States Enrichment Corporation, for USEC to Serve as the United States Government's Executive Agent Under the Agreement Between the United States and the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons," entered into as of April 18, 1997.~~

#### **16.4.2.3 Reliable and Economical Source of Domestic Enrichment Services**

**Under the Atomic Energy Act of 1954, as amended, Section 193(f)(2)(B) requires that the Commission may not issue a license or certificate of compliance if the Commission determines that issuance would be inimical to "... the maintenance of a reliable and economical domestic source of enrichment services." Section 193(f)(2)(B) is principally directed to the possibility of foreign entities gaining control and undermining U.S. domestic enrichment capabilities. Therefore, the reviews related to Foreign Ownership, Control, or Domination, will encompass the "reliable and economical" issue when there is an application to transfer certificates to a new facility owner, or transfer of control under 10 CFR 76.65.**



Issuance of a certificate of compliance is considered inimical to the maintenance of a reliable and economical source of domestic enrichment services if the applicant does not **meet the conditions for foreign ownership, control, and domination**. ~~have a sufficiently strong financial condition to allow the expectation that it can remain viable for at least 5 years.~~

**The review consists of the procedures in Section 16.4.2.1.**

~~The review consists of the following procedures. If the staff elects to have a contractor conduct these procedures, the staff reviews the contractor's analysis and findings and either concur with the findings or specify the staff's basis for taking a different position:~~

- ~~1. If the applicant has one or more current credit ratings issued by a recognized rating agency (e.g., Standard & Poor's Corp., Moody's, Investors Service, Duff & Phelps Credit Rating Co., or Fitch Investors Services, L.P.), the reviewer determines whether the lowest such rating is of investment grade (e.g., AAA, AA, A, or BBB as rated by Standard & Poor's, or Aaa, Aa, A, or Baa as rated by Moody's) or below investment grade (e.g., BB, B, CCC or lower as rated by Standard & Poor's, or Ba, B, Caa, or lower as rated by Moody's).~~
- ~~2. If the applicant does not have a current credit rating issued by a recognized rating agency, the reviewer conducts an independent analysis to estimate a credit rating and determine whether the estimated credit rating is of investment grade. The estimated credit rating is based on quantitative and qualitative analysis of information provided by the applicant, including information regarding the applicant's parent company or companies, to the extent that they might affect the financial condition of the applicant.~~
  - ~~a. The reviewer ensures that the NRC has received the following information from the applicant:~~
    - ~~(1) The types, amounts, and holders of debt and the types and amounts of equity of the applicant. In the case of the privatization of USEC, the method of financing to be used to purchase USEC (if applicable), and the types, amounts, and holders of any debt and the types and amounts of equity of the privatized entity;~~
    - ~~(2) A 5 year business plan addressing the applicant's enrichment business line as well as other anticipated business lines, including alternative enrichment technologies, that will require investments of capital (including working capital) by the applicant, and the portion of projected revenue, for each of the 5 years covered by contracts in existence at the time of the application;~~
    - ~~(3) All significant business and economic assumptions underlying the plan;~~

- \_\_\_\_\_ (4) Pro forma financial statements for the applicant for each of the next 5 years;
- \_\_\_\_\_ (5) Current financial statements (if applicable) for the applicant, and in the case of privatization, for USEC, along with an independent certified public accountant's opinion on the financial statements;
- \_\_\_\_\_ (6) Identification of the applicant's proposed directors and officers and a discussion of their qualifications to provide financial and business management;
- \_\_\_\_\_ (7) The organizational structure of the applicant and its relationship to corporate parents and other affiliates; and
- \_\_\_\_\_ (8) Information on the financial condition of the applicant's corporate parents, including credit ratings, profiles prepared by the investment industry, and/or audited financial statements reflecting the 3 most recently completed fiscal years.
- \_\_\_\_\_ b. The reviewer ensures that the items specified above are consistent and that they provide a comprehensive and reasonable picture of the applicant. If pro forma financial statements are based on inconsistent or unrealistic assumptions, the staff may need to discuss with the applicant the basis of the projections.
- \_\_\_\_\_ c. The reviewer quantitatively assesses the financial characteristics of the applicant relative to available historical benchmarks. Some corporate financial analysis expertise will be necessary to complete this step. The reviewer need one or more financial texts for reference, such as Standard & Poor's "Corporate Ratings Criteria." The reviewer's analysis includes the following measures:

  - \_\_\_\_\_ (1) Size Measures

    - \_\_\_\_\_ - Net sales
    - \_\_\_\_\_ - Net income
    - \_\_\_\_\_ - Total assets
    - \_\_\_\_\_ - Net worth
  - \_\_\_\_\_ (2) Capital Structure Ratios

    - \_\_\_\_\_ - Total debt ÷ capitalization
    - \_\_\_\_\_ - Total debt ÷ equity
    - \_\_\_\_\_ - Long-term debt ÷ capitalization
  - \_\_\_\_\_ (3) Coverage Ratios

\_\_\_\_\_ -  $\frac{\text{Net income plus depreciation and other noncash items}}{\text{total debt}}$

\_\_\_\_\_ -  $\frac{\text{Pretax income plus interest expense}}{\text{gross interest}}$

\_\_\_\_\_ -  $\frac{\text{Pretax income plus depreciation and other noncash items plus interest expense}}{\text{gross interest}}$

\_\_\_\_\_ (4) Profitability Ratios

\_\_\_\_\_ -  $\frac{\text{Net income}}{\text{total assets}}$

\_\_\_\_\_ -  $\frac{\text{Pretax income plus interest}}{\text{total assets}}$

\_\_\_\_\_ -  $\frac{\text{Net income}}{\text{equity}}$

\_\_\_\_\_ -  $\frac{\text{Operating income}}{\text{sales}}$

\_\_\_\_\_ Other ratios and measures addressing the above categories or other financial characteristics may be used if they provide a measure of the applicant's financial condition (e.g., see Standard & Poor's "Corporate Ratings Criteria").

\_\_\_\_\_ d. The reviewer also considers qualitative factors in light of the financial analysis. Factors to be assessed include the applicants competitive position, market environment, quality of management, and financial and business risks. These factors are considered in proportion to their potential impacts on the applicant.

\_\_\_\_\_ e. The reviewer evaluates the financial condition of the applicant's corporate parents and affiliates to the extent that they might affect the applicant's financial condition. The financial condition of corporate parents or affiliates are considered in proportion to the potential impact on the applicant.

\_\_\_\_\_ f. Based on the preceding steps, the reviewer establishes an estimated credit rating of the applicant. In establishing the estimated rating, the reviewer first determines what the estimated rating would be if it were based solely on an analysis of the applicant's financial ratios and size measures relative to available benchmarks. The reviewer then adjusts the estimated credit rating based on other considerations identified above. Adjustments are proportional to each factor's potential impacts on the applicant. Assignment of a specific estimated rating (e.g., AA versus A) is not necessary if the reviewer is able to determine that the estimated credit rating is investment grade. Assignment of a specific rating may be necessary if the estimated rating is below investment grade.

3. \_\_\_\_\_ If the actual or estimated credit rating is of investment grade, the reviewer finds that the applicant has sufficiently strong financial condition to allow it to remain viable for at least 5 years, and that issuance of a certificate of compliance would not be inimical to the maintenance of a reliable and economical source of domestic enrichment services. If the actual or estimated credit rating is below investment grade, the reviewer considers whether any other economic, financial, or business

~~characteristics (e.g., contracts adequate to support the applicant's operations over a 5 year time period, financial guarantees provided by a parent company, compelling business prospects) exist that provide reasonable assurance of the applicant's condition for at least 5 years. If the reviewer finds that such factors exist, and that the applicant is expected to remain viable for at least 5 years, then the reviewer finds that issuance of a certificate of compliance would not be inimical to the maintenance of a reliable and economical source of domestic enrichment services. However, if the reviewer finds that such factors do not exist, then the reviewer finds that issuance of a certificate of compliance to the applicant may be inimical to the maintenance of a reliable and economical source of domestic enrichment services.~~

## **16.5 Acceptance Criteria**

### **16.5.1 Regulatory Requirements**

1. 10 CFR 76.22 addresses the ineligibility of applicants for recertification.
2. 10 CFR 76.33 provides for NRC to require the applicant to supply additional information, as necessary.
3. 10 CFR 95.15 addresses the collection of information necessary to determine that the applicant is not owned, controlled, nor dominated by an alien, foreign corporation, or foreign government.
4. 10 CFR Parts 76 and 95 contain and reference applicable regulatory requirements necessary to protect the common defense and security.

### **16.5.2 Regulatory Guidance**

1. U.S. Nuclear Regulatory Commission, NUREG/CR-5734, "Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities."
2. U.S. Nuclear Regulatory Commission, Regulatory Guide 5.67, "Material Control and Accounting for Uranium Enrichment Facilities Authorized to Produce Special Nuclear Material of Low Strategic Significance."
3. U.S. Nuclear Regulatory Commission, "Security Plan Format and Content Guide for NRC Licensees, Certificate Holders, and Related Organizations."

### 16.5.3 Regulatory Review Criteria

The staff should use the following regulatory review criteria, or information demonstrating acceptable alternatives, in its review of the application. Acceptability should be based on the following:

#### Foreign Ownership, Control, or Domination

After a review of the potential foreign involvement information, in accordance with the Review Procedures, in Section 16.5.1~~4~~, the reviewer determines that no foreign interest has the ability, direct or indirect, ~~whether or not exercised~~, to direct or decide matters affecting the management or operations of the applicant.

The following additional criteria are applicable ~~in the case of USEC~~:

1. Foreign competitors of ~~the current certificate holder USEC~~ are precluded from participating in any acquisition of ~~the current certificate holder USEC~~.
2. Entities with a substantial commercial relationship with foreign enrichment providers, with respect to uranium and uranium products, are precluded from participating in any acquisition of ~~the current certificate holder USEC~~.
3. Foreign interests own no more than 10 percent of the outstanding voting securities of the applicant.
4. Foreign-sourced financing of an acquisition of ~~the current certificate holder USEC~~ is no more than 10 percent of the purchase price.

#### Common Defense and Security

1. ~~The~~ NRC has reviewed and approved the applicant's physical security plan.
2. ~~The~~ NRC has reviewed and approved the applicant's security plan for the protection of classified matter.
3. ~~The~~ NRC has reviewed and approved the applicant's fundamental nuclear material control plan.
4. If the applicant has previously been issued a certificate of compliance, a review of NRC inspection reports does not indicate ~~the applicant's~~ a general failure ~~by the applicant~~ to protect the common defense and security interests of the United States.
5. ~~If applicable~~, ~~Consultation~~ with the principal members of the Enrichment Oversight Committee indicates that the applicant's performance as the U.S. Agent for the Russian HEU Agreement is acceptable.

## Reliable and Economical Source of Domestic Enrichment Services

The review criteria for a finding related to a reliable and economical source of domestic enrichment services are subsumed by the above criteria for foreign ownership, control, and domination.

1. ~~The applicant's current actual or estimated public credit rating is investment grade (e.g. Standard & Poor's AAA to BBB, Moody's Aaa to Baa), or~~
2. ~~The applicant's current actual or estimated public credit rating is not investment grade, but other economic, financial, or business characteristics exist that strongly indicate the entity's financial condition is adequate for at least 5 years.~~

## 16.6 Evaluation Findings

### 16.6.1 Introduction

The staff's review should verify that sufficient information has been provided in the application ~~for renewal of certification~~ to satisfy the intent of requirements in 10 CFR 76.35, "Contents of Application," and 10 CFR 76.36, "Renewals," relative to determination of foreign ownership; and ~~that the information provided is consistent with the guidance in this SRP. On the basis of this information, the staff should be able to conclude that this evaluation is complete. The staff can document its review as follows.~~

### 16.6.2 Sample Evaluation Findings

The staff could document the safety evaluation for the certificate application as follows:

*On the basis of the staff's review and evaluation of the application **to transfer certificates for a change in ownership or control** ~~for recertification~~, the staff has found no cause to determine that:*

1. *The applicant is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or*
2. *Issuance of a certificate of compliance would be inimical to the common defense and security of the United States; or*
3. *Issuance of a certificate of compliance would be inimical to the maintenance of a reliable and economical domestic source of enrichment services.*

*On the basis of its review, the NRC staff determined that the information related to foreign ownership, control, or domination, common defense and security, and reliable and economical source of domestic enrichment services, is acceptable to support the **application to transfer certificates to: a new facility owner; or transfer of control, under 10 CFR 76.65** ~~recertification~~.*

## 16.7 References

1. U.S. Department of Defense, "National Industrial Security Program Operating Manual (NISPOM)," DOD 5520.22-M, January 1995.
2. U.S. Department of Energy, U.S. Nuclear Regulatory Commission, U.S. Enrichment Corporation, "Foreign Ownership, Control, or Influence Guidance Documents for the Privatization of the United States Enrichment Corporation."